



# MAYOR AND COUNCIL AGENDA

NO. 18 DEPT.: Legal/ Community Planning and Development Services DATE: July 26, 2004

Contact: Deane Mellander, Planner III

**ACTION:** Discussion and Instruction on proposed zoning text amendment TXT2004-00207:

To amend the Zoning Ordinance to extend the validity period of Use Permits for multi-phased developments; FP Rockville Limited Partnership, applicants.

## ACTION STATUS:

**FOR THE MEETING OF:** 8/2/04

INTRODUCED

PUB. HEARING 4/19/04

INSTRUCTIONS 8/2/04

APPROVED

EFFECTIVE

## ROCKVILLE CITY CODE,

CHAPTER 25

SECTION 193

☐ CONSENT AGENDA

**RECOMMENDATION:** Discuss the public hearing testimony and provide instructions to staff.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

Allows the validity period of use permits for a multi-phase project to be extended beyond the current 8-year maximum.

**BACKGROUND:** The applicant is proposing this text amendment for the purpose of extending the validity period of Use Permits for a multi-phase project from 8 years to 12 years if 30% of the total square footage has been completed within 8 years, and to 14 years if 60% of the floor area has been completed within 12 years. The applicant, FP Rockville Limited Partnership (Foulger-Pratt) has completed the first of 3 approved buildings along Rockville Pike. Under the current code provision, their use permit approvals for the balance of the project expire on December 2, 2006. As set forth in their request letter, they do not believe they can market the remaining space and build the balance of the project within the current validity period. They are requesting this text amendment in order to continue the project under the current approvals.

The Planning Commission considered this proposal at their meeting on March 24, 2004. The Commission considered the staff recommendation, and heard testimony from the applicant and interested citizens.

The staff recommended approval of the text amendment with modifications. The primary modification recommended by the staff was to limit the applicability of the text amendment to the Town Center Performance District. As submitted, the text amendment would have applied City-wide, with possible affect on other multi-phase projects such as the new development on Choke Cherry

Road at Shady Grove Road.

The Planning Commission voted 4 to 2 to recommend approval of the text amendment with additional modifications. These modifications were to: 1) clarify the language in subsection (b) regarding phases and multiple building development; 2) restore the existing language in subsection (d) regarding commencement of construction within 2 years and allowable extensions; and 3) have the extended validity period apply to projects in all Town Center zones and with the Twinbrook Metro Performance District. Their recommendation is attached. The staff from Planning and Legal have developed revised language based on the Planning Commission's recommendation. This language is also attached.

Post card notice of the public hearing was mailed to all of the civic associations.

The public hearing was held on April 19, 2004. A summary of the testimony is attached. The Mayor and Council had several questions regarding the effect of the text amendment and procedural issues. Councilmember Hall asked whether there should be a reassessment of adequate public facilities as a result of the text amendment. The applicant noted that traffic generation from the total project was assessed at the time of approval, and is included in background traffic for future project reviews. Councilmember Hall also expressed concern about parking reductions. Mayor Giammo asked what happens if construction begins but stops? In such a case, assuming the use permit validity period has expired, the expiration of the building permit would void the underlying use permit, and the applicant would have to start a new permitting process.

Based on the recommendations of the Planning Commission and the public hearing testimony, a revised draft of the proposed text amendment has been prepared and is also attached. The revision incorporates the applicability of the text amendment to all of the Town Center zones, and the Twinbrook Metro Performance District. In addition, the language in subsection "e" has been clarified to make sure that completed buildings under one use permit are not affected if the permit expires before the other buildings in the project have begun.

**PREPARED BY:**

Deane E. Mellander  
Deane Mellander, Planner III

7/24/04  
Date

**APPROVE:**

Robert J. Spalding  
Robert J. Spalding, AICP, Chief of Planning

7-26-4  
Date

**APPROVE:**

Arthur D. Chambers  
Arthur D. Chambers, AICP, CPDS Director

7/26/04  
Date

**APPROVE:**

Catherine Tuck Parrish  
Catherine Tuck Parrish, Acting City Manager

7/28/04  
Date

**LIST OF ATTACHMENTS:**

1. Summary of public hearing testimony.
2. Revised text amendment language.
3. Planning Commission recommendation.
4. Maps of Town Center and Twinbrook Metro Performance District.

5. Staff report to the Planning Commission with attachments:

- A. Letter from Linowes and Blocher requesting the Text Amendment.
- B. Zoning Text Amendment Application.
- C. Proposed ordinance by applicant.

Summary of Public Hearing Testimony

Text Amendment TXT2004-00207

Extend Validity Period of Use Permits

SPEAKER	TESTIMONY	STAFF COMMENTS
Erin Girard & Clayton Foulger	Wants a minor change to the language of subsection “e”, per discussion with Legal. The proposal is similar to the County’s process, which has a 12-year limit on approvals, with possible extensions for up to 18 years. Traffic that will be generated by the project has already been accounted for in background counts. This is a “smart growth” project, close to Metro. The existing parking garage is intended to serve the entire project. The applicant/developer has done everything reasonable to development the project, including pursuit of the GSA proposal. Mr. Foulger also notes that the City asked that all 3 buildings be included for purposes of applying for public improvement funds, and reiterates his long-term contribution to the Town Center.	Staff has prepared a revised version of the proposed language, based on recommendations from the Planning Commission and comments from the public hearing.
William Meyer	Recommends expanding the applicability to the Twinbrook area and the Stonestreet portion of the Town Center. The proposal is tailored to one developer, who can’t lease due to a lack of parking. Will the Town Square project accommodate the needed parking? Why not let the permits expire and see what new ideas emerge?	The applicant’s project has achieved the maximum amount of on-site parking, considering the limits on excavation and added decks. This includes the approved parking reduction. Town Square will add additional public parking.
Harry Thomas	Does not support the proposed amendment. Suggests even shortening the validity period to 5 years with a 3-year extension available. Asks if this proposal would apply to the Uniwest site on Twinbrook Parkway.	If applicability is limited to the Twinbrook Metro Performance District, the Uniwest site would not qualify since it is outside the district boundary; also, it is not a multi-building project.
David Hill	Concern about unlimited extensions—Tower Oaks never expires, and we have mortgaged the traffic from it. Fortune Parc will add more traffic. Suggests that instead of extensions, that the City approve a concept plan, and have the developers come back for public extension approval—don’t allow long term extensions.	Tower Oaks and other CPD’s are in a different category than is the case with a single project use permit approval. Note that their background traffic is already counted.

TXT2002-00207 – Revised language per Planning Commission recommendations and Public Hearing comments– 5/12/04

## DIVISION 2. USE PERMIT

\* \* \*

Sec. 25-193. Issuance; term, etc.

(a) A use permit shall be issued if the Planning Commission, the Mayor and Council, or the [Director] Chief of Planning, as the case may be, finds that the use proposed in the application will not:

- (1) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- (2) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; or
- (3) Constitute a violation of any provision of this Code or other applicable law.

(b) The Planning Commission, the Mayor and Council, or the [Director] Chief of Planning may attach such conditions to the approval of the use permit as may be reasonable and necessary to assure that the proposed use will be consistent with the purpose and intent of this chapter. Such conditions of approval may include, but not be limited to, a requirement that plans and programs for soil erosion and sediment control, as may be recommended by the Soil Conservation Service, be carried out in conjunction with the use and development of any land for which a use permit is issued[, and a limitation on the time for implementing all phases of a multiple building development use permit. Notwithstanding the provision of subsection (d) hereof, the limitation for commencement for all phases of development for a multiple building development use permit, shall not exceed eight (8) years].

(c) No deviation from the plans so approved shall be permitted without approval as provided in this subsection:

- (1) No substantial deviation from plans approved shall be permitted without the approval of a new use permit following the same procedure as in the case of an original application;
- (2) Any deviation not deemed substantial by the [Director] Chief of Planning may be considered and acted upon by the [Director] Chief of Planning following submission of an application to amend the use permit;

(d) Construction or operation shall commence within two (2) years of the date of issuance or the use permit shall become void. For good cause shown, not more than two (2) extensions not exceeding one (1) year each, may be granted by the Planning Commission, the Mayor and Council, or the Chief of Planning, depending on who has authority over the application.

(e) Notwithstanding the provision of subsection (d) hereof, a use permit shall become void for those buildings within a multiple building development for which construction has not commenced within the following time frames:

(1) eight (8) years from the date of issuance of the use permit; or

(2) for any development located within any of the Town Center zones identified in Article 6 of this chapter or within the Twinbrook Metro Performance District:

a. twelve (12) years from the date of issuance of the use permit, provided that thirty percent (30%) or more of the total approved gross floor area has been constructed within eight (8) years from the date of issuance of the use permit; or

b. fourteen (14) years from the date of issuance of the use permit, provided that sixty percent (60%) or more of the total approved gross floor area has been constructed within twelve (12) years from the date of issuance of the use permit.

[(e)] (f) Whenever the Planning Commission, the Mayor and Council, or the [Director] Chief of Planning find that any permit previously approved has not been complied with, the Planning Commission, the Mayor and Council, or the [Director] Chief of Planning are authorized after written notice by first class mail to the applicant, and any persons who appeared before the Commission, or the Mayor and Council or entered their appearance in writing prior to the approval of the use permit, and after granting the applicant an opportunity to be heard, to suspend or revoke the use permit or take such other action as deemed necessary.



City of Rockville

## MEMORANDUM

April 1, 2004

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment TXT2003-00207, to Extend the Validity Period for Use Permits for Multi-Phase Developments.

At its meeting on March 24, 2004, the Planning Commission considered proposed Zoning Text Amendment No. TXT2003-00207. This text amendment would extend the time required to implement the Use Permit for a multi-phase development. The current limit is 8 years. The proposed text amendment would allow up to 12 years if 30 percent of the gross floor area were built, and up to 14 years if up to 60 percent of the floor area were built.

The Commissioners were given a presentation by the staff, and heard testimony from the applicant and citizens.

The Commissioners noted that the modified language proposed by the staff deleted the extension provision for commencing construction contained in the current language of subsection (d) of Section 25-193. Staff agreed that this was an oversight and should be corrected. The staff also recommended that the text amendment only be effective within the Town Center Performance District, rather than be applicable city-wide.

Commissioner Britton supports the modified text amendment, and the narrower application to the Town Center Performance District. He believes this proposal makes sense from a public policy perspective, but it should not be extended throughout the City.

Commissioner Ostell is concerned about limiting the applicability of the proposal. It appears that the proposed language is intended to apply only to the Foulger-Pratt property. Simply being too close to Metro may not be the entire answer. Limiting Use Permits does have a valid purpose to limit tying up land with non-viable projects. Perhaps the City should take a more rationale approach to the entire code.

Commissioner Holtz is concerned about the parking issues in the Town Center. It appears that Foulger-Pratt is relying on the proposed Parking District to meet its own parking needs. He's

unsure about giving a carte blanche approval, but will reluctantly support the modified text amendment.

Commissioner Mullican supports the concept of the text amendment. The Foulger-Pratt project is one of the nicest in the City and should be encouraged. She notes that the proposed time extensions closely track the validity periods in the County's Adequate Public Facilities program. She would support extending the applicability of the text amendment to the entire Town Center Planning Area as well as the Twinbrook Metro Performance District.

Commissioner Johnson has mixed feelings about the proposal. He supports and encourages the applicant, and public policy supports the text amendment near the Metro station. He does not like long time extensions, and does not support extending applicability to the entire City. He could consider supporting extending the applicability to the east along Stonestreet Avenue, and to the Twinbrook Metro Performance District.

Commissioner Hilton is reluctant to do spot zoning, and has a concern about impact on adequate public facilities over the long term. He supports extending the applicability to the Twinbrook Metro Performance District in order to enhance the City's competition with the County in that area. He is also concerned about the lack of clarity in the existing language referring to "phases" and multiple building development.

Commissioner Britton moved and Commissioner Holtz seconded a motion that the proposed text amendment be approved with the following additions and modifications:

1. Clarify the language in subsection (b) regarding phases and multiple building development;
2. Restore the existing language in subsection (d) regarding commencement of construction within 2 years and allowable extensions;
3. Have the extended validity periods apply to all Town Center Zones, and to developments within the Twinbrook Metro Performance District.

The Planning Commission therefore recommends approval of the text amendment with modifications noted above by a vote of 4 to 2 with one absent.

Commissioner Mullican voted against the motion solely because she believes the text



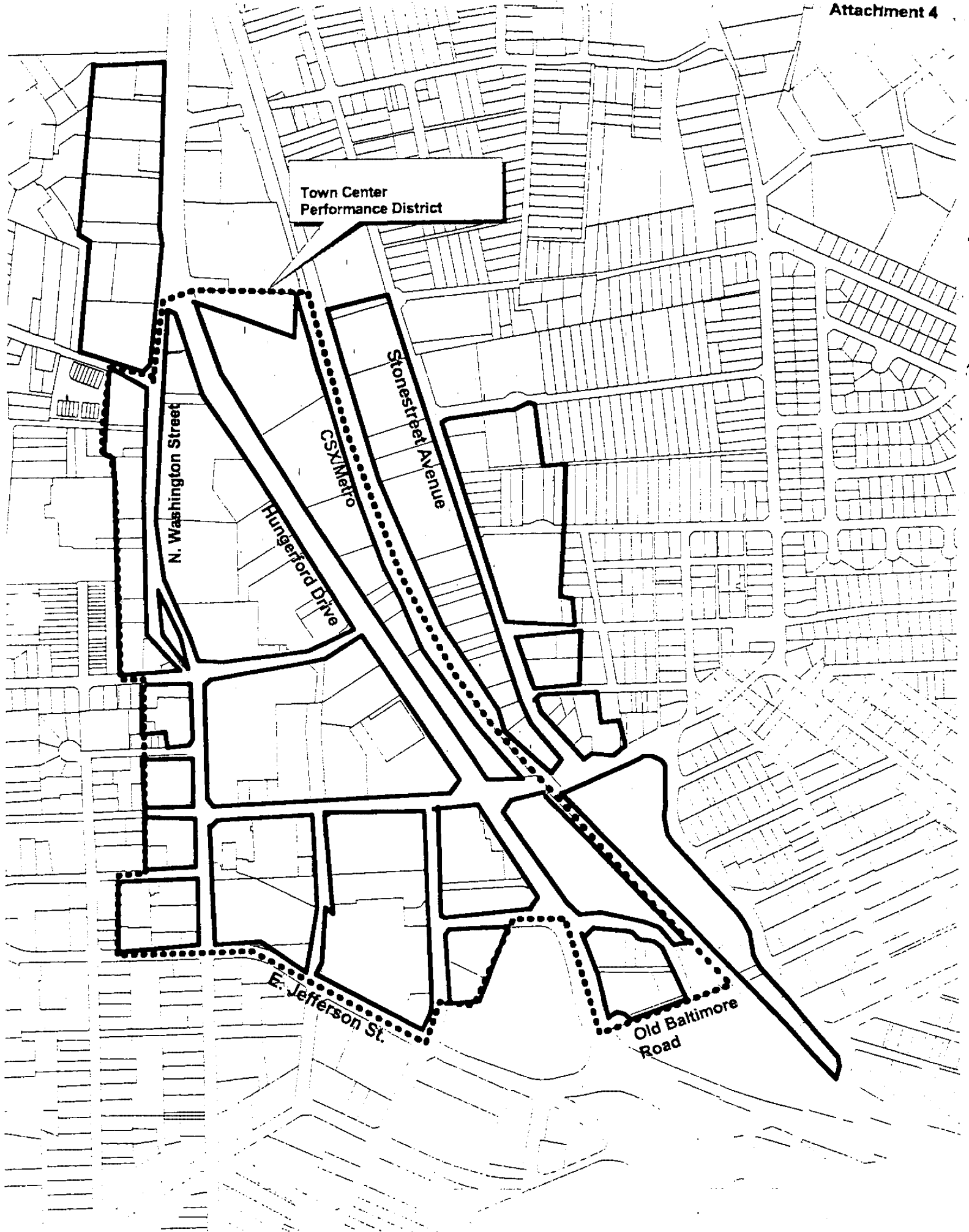
Page 3  
April 1, 2004

amendment should be applicable throughout the Town Center Planning Area, rather than be limited in scope.

Commissioner Ostell voted against the motion for her concerns expressed above.

DM

cc: Planning Commission



Town Center  
Performance District

N. Washington Street

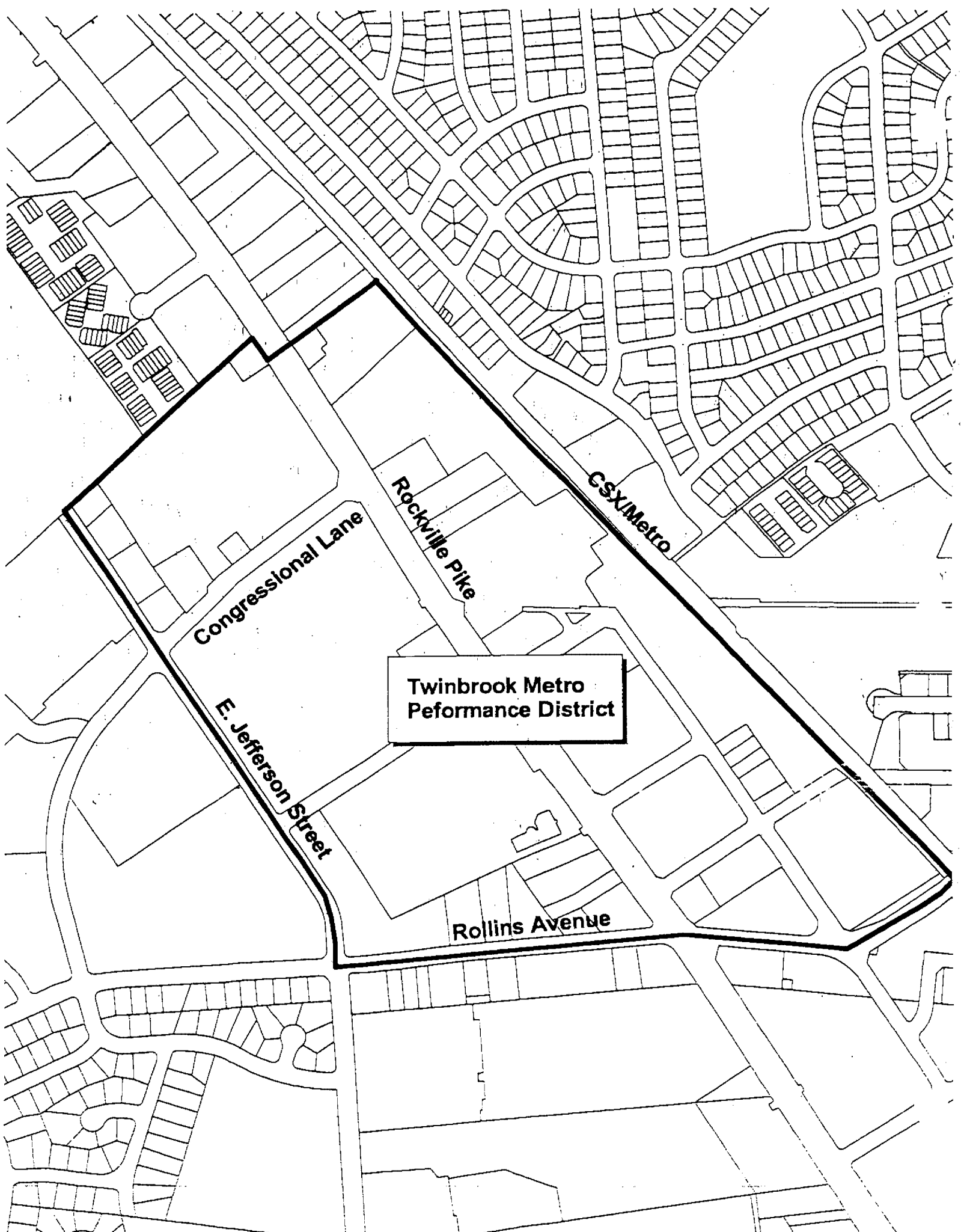
CSX/Metro

Hungerford Drive

Stonestreet Avenue

E. Jefferson St.

Old Baltimore  
Road



Congressional Lane

Rockville Pike

CSX/Metro

**Twinbrook Metro  
Performance District**

E. Jefferson Street

Rollins Avenue



City of Rockville

**MEMORANDUM**

March 18, 2004

TO: Planning Commission

FROM: Deane Mellander, Planner III *DM*

VIA: Robert J. Spalding, AICP, Chief of Planning *RJS*

SUBJECT: Recommendation on Zoning Text Amendment TXT2004-00207 - To extend the validity period of Use Permits for multi-phased developments.

**BACKGROUND**

Application has been made by FP Rockville Limited Partnership ("Foulger-Pratt") to amend the zoning ordinance. The purpose of the amendment is to change the Use Permit validity period for multi-phase projects. This directly relates to the approved Foulger-Pratt project in the Town Center.

Currently, Section 25-193 of the Code reads, in part, as follows:

"Notwithstanding the provision of subsection (d) hereof, the limitation for commencement for all phases of development for a multiple building development use permit, shall not exceed eight (8) years."

The Foulger-Pratt project received use permit approval (USE1997-00577) on December 2, 1998, which means that their validity period expires on December 2, 2006. The first of three proposed buildings has been completed. As noted in the applicant's letter requesting the text amendment, they have not been able to fully lease this building. As a consequence, it seems unlikely that the next two buildings will be built in the next two years. The requested text amendment would allow the validity period to be extended up to 14 years if certain conditions are met.

**ANALYSIS**

In lieu of the 8-year limit in the current language, the proposed text amendment would add language to subsection (d) of Section 25-193 that will regulate the validity period as follows:

March 18, 2004

1. Two years for an individual building.
2. Eight years for a multiple building project, except:
3. Twelve years if one or more buildings containing at least 30 percent of the total floor area have been constructed within 8 years;
4. Fourteen years if 60 percent of the total floor area has been constructed within 12 years.

The effect of this text amendment on the Foulger-Pratt project would be that their validity period would be extended to December, 2010 or, if the second building has been built by that time, to 2012 to commence construction on the third building.

Major office projects such as Foulger-Pratt's are often subject to local or national economic conditions. The economic slow-down of the last few years has certainly had some impact on the leasing rate for this project. Despite having class A space with on-site parking and being across the street from the Metro station, the current building is only partially leased. The developers are not going to begin construction of another building without having the first building fully leased and tenants lined up for the new one(s).

The proposal does raise policy issues about development in the City. One of the concerns discussed by the Mayor and Council during the worksessions on the Adequate Public Facilities Ordinance (APFO) was the amount of approved development that had public facility commitments for traffic capacity, water and sewer service, etc., but were moving forward slowly, if at all. In general, the Mayor and Council was pursuing reducing the length of approval validity periods for large developments. However, this proposal extends the time period. The proposal raises a policy issue of whether the Mayor and Council desires Town Center projects to have more time to implement approved plans.

The total Foulger-Pratt project was approved for 620,000 square feet of office and retail space, of which 230,000 square feet has been completed. The traffic study for the project anticipates that the total project would generate 521 trips in the a.m. peak hour and 763 trips in the p.m. peak hour. If we credit the trips assigned to the existing building, that leaves approximately 328 a.m. peak hour trips and 481 p.m. peak hour trips that are committed to this project. The issue is how long does the City want to maintain these commitments in the face of other development pressures. It is a balancing exercise between maintaining and encouraging development in the Town Center, and releasing the public facility capacity for other potential developments.

The proposed amendment would affect at least one other project in the City, which the approved development on the south side of Choke Cherry Road. In addition to the GSA building, which is currently under construction, two additional office buildings have been approved under Use Permit USE2003-00658. The GSA building totals 238,087 square feet, while the other two office buildings combined total 117,008 square feet. The GSA building is almost 50% of the entire project, so the validity period would be extended from 8 years to at least 12 years.

Based on the Mayor and Council's previous direction, it may be appropriate to limit the applicability of the amendment to the Town Center Performance District. By extension, the text amendment would also apply to the recently-approved Town Square project use permits, presuming that at least 30 percent of the proposed project is completed within 12 years.

### STAFF RECOMMENDATION

The staff recommends approval of the proposed text amendment, with the modification that the change in the validity period only be applicable within the Town Center Performance District. The proposed change would modify subsection (d) of the proposed text amendment to read as follows:

- (d) The use permit shall become void if construction or operation does not commence within:
  - 1. Two (2) years of the date of issuance for an individual building;
  - 2. Eight (8) years of the date of issuance for a multiple building development, except as provided for in subparagraphs 3 and 4 below;
  - 3. Twelve years of the date of issuance for a multiple building development within the Town Center Performance District if one or more buildings, containing a total of 30 percent or more of the total square footage approved, has been constructed prior to eight (8) years from the date of issuance of the use permit;
  - 4. Fourteen (14) years of the date of issuance for a multiple building project within the Town Center Performance District if two or more buildings, containing 60 percent or more of the total square footage approved, has been constructed prior to twelve (12) years from the date of issuance of the use permit.

The double underlines indicate the changes recommended by staff. With these modifications, staff recommends approval of the proposed text amendment.

### Attachments

- A. Letter from Linowes and Blocher requesting the text amendment.
- B. Text Amendment application
- C. Text Amendment as proposed by applicant

**LINOWES  
AND BLOCHER LLP**  
ATTORNEYS AT LAW

**RECEIVED**  
JAN 20 2004

COMMUNITY PLANNING  
AND DEVELOPMENT SERVICES

January 20, 2004

Barbara A. Sears  
301.961.5157  
bscars@linowes-law.com

Mayor Giammo and Councilmembers  
Rockville City Hall  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Application for Text Amendment to Section 25-193 of the Rockville Zoning Ordinance

Dear Mayor Giammo and Councilmembers:

On behalf of our client, F P Rockville Limited Partnership ("Foulger Pratt"), enclosed please find a completed Application for a Text Amendment to the Zoning and Planning Ordinance ("Zoning Ordinance") and a check in the amount of \$2,500 representing the filing fee for the application.

The purpose of the proposed text amendment is to extend the validity period for use permits approving multi-phased developments, if certain conditions are met. As we discussed with the Planning Commission during its consideration of the proposed adequate public facilities ordinance, Foulger Pratt is concerned about the validity period for Rockville Metro Plaza in the Rockville Town Center. Rockville Metro Plaza obtained Use Permit approval (USE97-0577) on December 2, 1998 for a three phase development consisting of three office buildings with a ground floor retail component, integrated below-grade parking, and extensive streetscape improvements (the "Project"). At the time of this approval, the Project's relationship to the redevelopment of the Rockville Town Center was highlighted and it was concluded that the Project "represents a major contribution to the redevelopment of Rockville's Town Center...[a]s a major employment center and potential location for retail and restaurant space that will be patronized by City residents, the addition should be positive for the Town Center and represents a significant upgrade to the site." See USE97-0577 Staff Report, dated November 13, 1998. Pursuant to this approval, Phase I, the northern office building on Rockville Pike, consisting of approximately 230,000 square feet including retail space, was constructed. The intent during the development of the Project was that it complement nearby existing governmental and private office space, as well as the proposed mix of retail, residential, and office space to be redeveloped as part of the new Town Center. However, the anticipated redevelopment of the remainder of the Rockville Town Center has been delayed. Due to this delay, Foulger Pratt has experienced difficulty in leasing both office and retail space in the Phase I office building due to the lack of Town Center amenities, services, and parking.

Mayor Giammo and Councilmembers

January 20, 2004

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As a result of these factors, Foulger Pratt is not reasonably able to move forward on the development of the remaining phases until the redevelopment of the remainder of the Town Center begins in earnest.

Pursuant to Section 25-193 of the Zoning Ordinance as now written, Rockville Metro Plaza's use permit approval will expire on December 2, 2006 if construction on all phases of the development have not commenced by that date. However, as discussed above, Foulger Pratt cannot reasonably be expected to commence construction on its remaining two buildings until the redeveloped Rockville Town Center is constructed and the amenities, services, and parking necessary to support the additional office buildings are in place. Since the construction of the Town Center is not anticipated to be in place within sufficient time to allow the reasonable construction and absorption of the remaining two office buildings in the Project prior to the expiration of the use permit, Foulger Pratt would be unfairly forced to miss its use permit validity deadline as a result of factors involving the redevelopment of the Town Center outside of its control. This result is particularly unfair since Foulger Pratt has been in the forefront of the Town Center redevelopment with its project, at great cost and expense.

To avoid the inequities discussed above, we respectfully request that Section 25-193 be amended, as discussed in detail in the enclosed application, to extend the validity period of a use permit for multi-phased development when certain levels of good faith construction are demonstrated. In this regard, the validity period for a use permit for a multiple building development could be extended to 12 years if one or more buildings, containing a total of 30 percent or more of the total square footage approved, have been constructed prior to 8 years from the date of issuance, or to 14 years if two or more buildings, containing 60 percent or more of the total square footage approved, have been constructed prior to 12 years from the date of issuance. Such a revision of the Zoning Ordinance will enable the Project to proceed in conjunction with the redevelopment of the Town Center, as was originally anticipated, and will fairly recognize the longstanding efforts and significant and continuous investment that Foulger Pratt has made in the success of the Town Center.

Thank you for your time and consideration of this matter. If you have any questions or require any additional information, please feel free to contact us.

Sincerely,

**LINOWES AND BLOCHER LLP**

  
Barbara A. Sears



**LINOWES**  
AND **BLOCHER LLP**  
ATTORNEYS AT LAW

Mayor Giammo and Councilmembers  
January 20, 2004

Page 3

cc: Arthur Chambers  
Robert J. Spalding  
Clayton F. Foulger  
Erin E. Girard, Esq.

APPLICATION TO THE CITY OF ROCKVILLE  
FOR A TEXT AMENDMENT  
TO THE ZONING AND PLANNING ORDINANCE

THIS APPLICATION MUST BE TYPEWRITTEN OR PRINTED AND NOTARIZED AND SUBMITTED IN DUPLICATE TO THE CITY CLERK FOR FILING. ALL ITEMS MUST BE COMPLETED AND THE FILING FEE MUST ACCOMPANY THIS APPLICATION.

	<u>DO NOT WRITE IN THIS SPACE</u>
FP Rockville Limited Partnership	Application No. _____
Name of Applicant	Filing Date _____
c/o Clayton Foulger	Filing Fee _____
9600 Blackwell Road, Suite 200	Public Hearing Date _____
Rockville, MD 20850	Decision/Date _____
Address	
240-499-9600	
Telephone Number	

APPLICATION IS HEREBY MADE WITH THE ROCKVILLE MAYOR AND COUNCIL FOR APPROVAL OF A CHANGE IN THE TEXT OF THE ZONING AND PLANNING ORDINANCE OF ROCKVILLE, MARYLAND.

Page 1974 - 1975 Article V Section 25-193

FROM: Which reads as follows:

See attached

TO: Read as follows:

See attached

State of Maryland  
County of Frederick

By: Clayton Foulger  
Signature of Applicant

Subscribed and sworn before me this 8th day of January, 19 2004

My Commission Expires: 11/1/06

Wigand Patten  
Notary Public

[Current Version]

ROCKVILLE CITY CODE

Sec. 25-193. Issuance; term, etc.

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(b) The Planning Commission, the Mayor and Council, or the Director of Planning may attach such conditions to the approval of the use permit as may be reasonable and necessary to assure that the proposed use will be consistent with the purpose and intent of this chapter. Such conditions of approval may include, but not be limited to, a requirement that plans and programs for soil erosion and sediment control, as may be recommended by the Soil Conservation Service, be carried out in conjunction with the use and development of any land for which a use permit is issued, and a limitation on the time for implementing all phases of a multiple building development use permit. Notwithstanding the provision of subsection (d) hereof, the limitation for commencement for all phases of development for a multiple building development use permit, shall not exceed eight (8) years.

(c) No deviation from the plans so approved shall be permitted without approval as provided in this subsection:

(1) No substantial deviation from plans approved shall be permitted without the approval of a new use permit following the same procedure as in the case of an original application;

(2) Any deviation not deemed substantial by the Director of Planning may be considered and acted upon by the Director of Planning following submission of an application to amend the use permit;

(d) Construction or operation shall commence within two (2) years of the date of issuance or the use permit shall become void. For good cause shown, not more than two (2) extensions not exceeding one (1) year each, may be granted by the Planning Commission, the Mayor and Council, or the Chief of Planning, depending on who has authority over the application.

(e) Whenever the Planning Commission, the Mayor and Council, or the Director of Planning find that any permit previously approved has not been complied with, the Planning Commission, the Mayor and Council, or the Director of Planning are authorized after written notice by first class mail to the applicant, and any persons who appeared before the Commission, or the Mayor and Council or entered their appearance in writing prior to the approval of the use permit, and after granting the applicant an opportunity to be heard, to suspend or revoke the use permit or take such other action as deemed necessary.

(Laws of Rockville, Ch. 6, § 1-3004; Ord. No. 22-88, § 2, 7-25-88; Ord. No. 9-90, § 3, 5-14-90; Ord. No. 34-90, § 3, 11-26-90; Ord. No. 27-91, § 2, 11-18-91; Ord. No. 15-93, § 2, 10-25-93)

[Redline Version]

ROCKVILLE CITY CODE

Sec. 25-193. Issuance; term, etc.

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(b) The Planning Commission, the Mayor and Council, or the Director of Planning may attach such conditions to the approval of the use permit as may be reasonable and necessary to assure that the proposed use will be consistent with the purpose and intent of this chapter. Such conditions of approval may include, but not be limited to, a requirement that plans and programs for soil erosion and sediment control, as may be recommended by the Soil Conservation Service, be carried out in conjunction with the use and development of any land for which a use permit is issued, and a limitation on the time for implementing all phases of a multiple building development use permit. ~~Notwithstanding the provision of subsection (d) hereof, the limitation for commencement for all phases of development for a multiple building development use permit, shall not exceed eight (8) years. subject to Subsection (d) below.~~

(c) No deviation from the plans so approved shall be permitted without approval as provided in this subsection:

(1) No substantial deviation from plans approved shall be permitted without the approval of a new use permit following the same procedure as in the case of an original application;

(2) Any deviation not deemed substantial by the Director of Planning may be considered and acted upon by the Director of Planning following submission of an application to amend the use permit;

(d) The use permit shall become void if construction or operation does not commence within:

(1) two (2) years of the date of issuance for an individual building.

(2) eight (8) years of the date of issuance for a multiple building development, except as provided in subparagraphs 3 and 4 of this subsection (d).

(3) twelve (12) years of the date of issuance for a multiple building development if one or more buildings, containing a total of 30 percent or more of the total square footage approved, has been constructed prior to eight (8) years from the date of issuance.

~~(d) (4) Construction or operation shall commence within two (2) fourteen (14) years of the date of issuance or the use permit shall become void. For good cause shown, not for a~~

multiple building development if two or more than two buildings, containing 60 percent or more of the total square footage approved, has been constructed prior to twelve (212) extensions not exceeding one (1) year each, may be granted by years from the Planning Commission, date of issuance of the Mayor and Council, or the Chief of Planning, depending on who has authority over the application-use permit.

(e) Whenever the Planning Commission, the Mayor and Council, or the Director of Planning find that any permit previously approved has not been complied with, the Planning Commission, the Mayor and Council, or the Director of Planning are authorized after written notice by first class mail to the applicant, and any persons who appeared before the Commission, or the Mayor and Council or entered their appearance in writing prior to the approval of the use permit, and after granting the applicant an opportunity to be heard, to suspend or revoke the use permit or take such other action as deemed necessary.

(Laws of Rockville, Ch. 6, § 1-3004; Ord. No. 22-88, § 2, 7-25-88; Ord. No. 9-90, § 3, 5-14-90; Ord. No. 34-90, § 3, 11-26-90; Ord. No. 27-91, § 2, 11-18-91; Ord. No. 15-93, § 2, 10-25-93)